

HIOSH ADVISORY COMMITTEE
Minutes November 14, 2002

Present: Lani Bjork, Steve Brooks, Robert Dove, Connie Hastert, Charles Kelley, Tracy Lawson, Tim Lyons, Robert Nakamatsu, Gareth Sakakida, Thomas Vendetta, Clayton Winger, and Roy Yamamoto

Absent: Arthur Akana, Richard Botti, Delbert DeRego, Gerald Estenzo, Wade Hashizume, Carol Kahue, Brian Kawahara, James Merrick, Gary Rodrigues, Orlando Soriano, and Allan Yokoyama

HIOSH: Jennifer Shishido, James Decker, Ellen Kondo, Masayoshi Ogata, Mark Behrens, and Terry Oyafuso (Recorder)

Meeting called to order at 1:02 pm by Lani Bjork, Chair.

1. Minutes of August 15, 2002 approved.

2. Members

Gareth Sakakida representing the Hawaii Transportation Association.

3. Proposed Legislation Bills

a. OSH Training and Assistance Fund Special Fund

- Used for trainer position, newsletter, publications, sponsor conferences and grants (relating to safety and health training to help industries be self-sufficient).
- Certification programs - 1) Certificate of Fitness for blasters which includes pyrotechnics and movie special effects which will also have a major impact on the economy, and 2) Certified Safety and Health Professional - conduct audits for companies in order to get the 5% WC's premium discount.
- Funds cannot be used for enforcement activities.
- Continue as a permanent fund to allow us to hire personnel. Unable to hire people as they will get laid off shortly after 4 years. It takes two years to train. In Hawaii, 97% are small businesses and they continue to need assistance.

Question - Availability of grants and how used? Response - 1) Grants were issued to Leeward Community College, Building Industry Association, and Big Island Safety Association to design training programs for small businesses. 2) Research grants issued to UH Engineering - study on blasting lava rock and fall protection on residential construction. UH Public Health - ergo outreach for small businesses. Grants are issued on the design of the program and to ensure public money is used well. Reports are also requested. Grant is usually \$25,000.

- b. Consultation Reports Confidentiality - Reports are a public record once everything is abated. There is no protection from disclosure. Businesses are concern with business practices that they believe should be confidential as to how they do certain things or how they apply their discipline program. Can be released in certain situations like fraud. Chapter 396-14 protects it from use in civil cases.
- c. Explosives Criminal Background Check - National background check. 50% are out-of-state blasters and no way to check background. Reporting of explosives inventory quarterly as to where they are stored to first responders for public safety reason.
- d. Boiler & Elevator Revolving Fund - increase ceiling and continue as a permanent fund.

4. HIOSH Activities/Status Reports

a. Administration & Technical Branch

- (1) Staff - Two program specialist vacancies, hired 2 temporary staff, submitted request to hire at the shortage category.
- (2) Standards - Public hearing scheduled for December 13, 2002 for steel erection and recordkeeping amendments for hearing loss to be effective January 1, 2003.
 - Hoisting Operators' Certification - Attorney General's for review, then to the Governor, Budget & Finance, Dept of Business Economic Development Tourism for final approval.
- b. Occupational Safety Branch
 - (1) Staff - 1 vacancy
 - Increased efficiency in inspections and contest rate declined due to greater customer service. At informal conferences employers have mentioned that inspectors have been courteous and good advice given. Also, there is more dialoging with the employers we cite.
 - (2) Accidents Investigated - 1) Security guard struck by automobile crossing highway on ATV, employer failed to enforce company policy to use the tunnel; proposed citation for general duty violation; 2) Crane boom collapsed - master clutch failed, investigation on-going; and 3) Individual fatally struck by forklift - employer cited for forklift training violations (operating forklift with view blocked).
- c. Occupational Health Branch
Accident investigation - maintenance worker exposed to hydrogen sulfide in a manhole. Citation proposed for permit required in a confined space.

Comment: HIOSH Law is not a strict liability one. A violation does not mean the employer gets cited. There are several, the most common of which is the *Unpreventable employee misconduct*. The other two are *isolated instance* in which the employer (and the industry) could not have foreseen that the situation was a hazard, i.e. new equipment, new methods of doing things. The other is *greater hazard*. The solution to both is to request a variance from the standard from HIOSH. Unpreventable employee misconduct requires four elements: (1) A work rule (specific not vague); (2) Clearly communicated to all affected employees; (3) Uniform enforcement of the work rule – even when behind in production or affects the relative of the boss; and (4) A means to detect or check for compliance – periodically (and without predictability or advance notice). For uniform enforcement, documentation of the oral warning is often lacking. If don't document the first, will never have a second. Employers usually fail to enforce the work rule or provide a means to detect non-compliance with the work rule.

- d. Consultation & Training
 - (1) Staff - severe staff shortage (5 of 8 positions) one started October 1 and still in training. Hilo consultant's position will restore in the budget request. Reason for unable to recruit and retain qualified personnel is salary too low as compared to some states. OSHA is exploring ways to retain consultants nationwide by improving training and certification and job retention enhancements. Working with our administration also.
 - (2) Consultation rules - amendments to 29 CFR 1908 have been an issue for a long time (posting hazards report and employee walk around for consultation visits). Looks similar to enforcement. HIOSH concern that it was more like enforcement and not conducive to a trust relationship with consultant and employer. Comments

submitted by this committee and HIOSH disagreed. On November 6, 2002, HIOSH Administrator met with OSHA and the Consultation Board and they are not proposing any amendments. Rest of the states can live with it and thought if the service is good should be no problems. We need to just work around it to overcome this barrier. With the bill making it confidential that should help.

6. Other Concerns/Information

- a. Results of Industrial Hygiene Professionals Annual Meeting. See hand out. Meeting was to communicate with IHs so that they understand and serve their clients with meaningful services. Outcome was AIHA will bring it up at their next meeting. HIOSH will also put information the website warning employers who they hire and how to select qualified IH companies.
- b. Results of OSHA Education Centers (University of California San Diego) Meeting on August 21, 2002.
 - Met with community colleges, UH Outreach College and DBEDT - Community colleges could not see any advantage to partnerships and UH systems need to generate income to be self-sufficient.
 - Ed Centers unwilling to share tuition costs and would not alter length course durations, i.e. 8 hrs to 2 hrs.
 - Recently attended an OSHA meeting and Ed Centers now willing to alter the course duration to two-hour increments suitable for small business.
 - Community colleges need to hear more and a lot more work need to be done to bring the two groups together again so mini-conferences are being planned.
- c. Mini Conferences
 - Hired 2 temporary staff to work on these conference and other areas.
 - Plan is to hold 8 conferences in March 2003 (Windward, Leeward, Honolulu areas and on all islands).
 - Working with Small Business Development Center for their input for what works for small businesses. Holding meetings and training sessions and want their ideas and input on what seems to work as well as input from safety associations.
 - Based on studies by HIOSH and NIFB on how to market our service and what are the barriers of small business acceptance of consultation and training, conclusion was that small businesses think they have no problems, everything is under control, and unaware of issues with safety and health until they have a fatality, premiums increased or in the high risk group. Need to approach it by how they can enhance and streamline safety and health into their own product or service. Working with business associations to deliver a product in a form of small workshops that would be ongoing by requests and scheduled on a regular basis.
 - Aging Workers Conference - Will coordinate around the same time frame with the mini-conferences.
 - Any input or information from members will help.
- d. Advisory Committee May meeting in Hilo - get public input from Big Island.
- e. Regulations are overwhelming for small business. **HIOSH Response - We are well aware that the regulations are voluminous, outdated and complex. OSHA is stepping away from regulations and using guidelines (reference "QuickTakes" on the OSHA webpage. Suggestion - if small businesses can integrate safety and health into their business practice for quality and customer service, it would ease the burden.**

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- f. Suggestion - minutes be posted on the web page and e-mailed to members.
- g. As mentioned at the ASSE meeting, enforcement on ergo can be stopped if there is a group that wants to work with us. OSHA's program is SHARP (Safety and Health Achievements and Recognition Program). HIOSH's HVPP (Hawaii's Voluntary and Protection Program) is for small business (250 or less). They request consultation assistance, achieve a goal in reduction in injuries, illnesses, loss time, and establish a safety and health program. They will receive recognition, a certificate and an exemption from enforcement. If not comfortable with HIOSH consultation, they can hire their own safety professionals. Bottom line is we do not want to use enforcement resources if a company is willing to do the above.

Meeting adjourned at 2:04 pm.

Next meeting February 20, 2003.

Enclosures*